

SOCIAL JUSTICE PRO BONO

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This article reports on a recently filed civil case in which the victim of sex trafficking sues the owners of the motel where she was held. Additionally, the article explores other cases in which civil courts have addressed human trafficking.

Lawsuit Alleges Liability against Hotel Owners Related to Sex Trafficking



ABOUT THE AUTHOR

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ABOUT THE COMMITTEE

The mission of the Social Justice Pro Bono Committee is to ensure that the IADC and its members continue to serve as guardians, caretakers, and advocates of and for social justice and to serve as role models for others in our profession. The Committee will explore and identify approaches to and resources for the provision of legal services to advance the cause of social justice, to assist the poor, disadvantaged, and other individuals, groups or organizations unable to secure legal assistance to address critical problems. The Committee will support, enhance, and transform the social justice and pro bono efforts of IADC members, corporate legal departments and public interest organizations in the U.S. and around the world. Learn more about the Committee at www.iadclaw.org. To contribute a newsletter article, contact:



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The International Association of Defense Counsel serves a distinguished, invitation-only membership of corporate and insurance defense lawyers. The IADC dedicates itself to enhancing the development of skills, professionalism and camaraderie in the practice of law in order to serve and benefit the civil justice system, the legal profession, society and our members.

A lawsuit was recently filed in the Court of Common Pleas of Philadelphia County on behalf of a minor individual alleging that the owners of a hotel were complicit in human sex trafficking. In the case of M.B. v. Roosevelt Inn, LLC, et al, Court of Common Pleas of Philadelphia County March Term No: 170300712, it is alleged that M.B., born in 1999, was a victim of human sex trafficking during the years 2013 and 2014.

The complaint alleges that the victim was repeatedly subjected to commercial sex acts at the subject hotel. Plaintiff states that the hotel and its employees failed to take any steps to prevent the human sex trafficking, and that they profited from the acts. Among the counts of the Complaint, the plaintiff alleges violation of the Pennsylvania Human Trafficking Law under which it is a felony to recruit, entice, solicit, harbor or transport a minor which results in the minor being subjected to sexual servitude.

An allegation is that the hotel rented rooms and provided services to the sex traffickers to allow the acts to take place with the minor plaintiff. The theory is the defendants had constructive knowledge of what was going on in the rooms. Included in the allegations are that the hotel clerk was aware that underage children were in rooms in the hotel and would direct the "johns" to the rooms where the minors were housed.

In addition to the negligence count related to violation of the Pennsylvania Human Trafficking Law, plaintiff also alleges a general

negligence count in breaching "the standard of good and prudent care by not reporting, intervening, disrupting or otherwise stopping the practice of traffickers committing commercial sex acts with a minor." Other counts include negligent infliction of emotional distress and intentional infliction of emotional distress. The Complaint was filed on March 10, 2017.

Related Cases From Other Jurisdictions

O'Brien v. Anderson Illinois Northern District Court, Case No. 1:12-cv-01201

In 2013, IADC member Charles Cole, of Chicago, obtained a jury verdict for the defendant in the United States District Court for the Northern District of Illinois. In that case, the plaintiff sued her ex-husband on claims of sexual assault, false imprisonment, battery, and intentional infliction of emotional distress. Plaintiff contended that her ex-husband forced her to be a sex slave and engaged in sadomasochistic role playing, against her will. She claimed that her wealthy businessman husband forced her to parade around their home naked, sleep on the floor next to their bed at night and address him as "master". She also claimed that Anderson knocked her unconscious during their honeymoon, tied her up, sexually assaulted her, took photographs and left her bound overnight. The plaintiff sought substantial compensatory damages along with punitive damages.

The defense was successful in challenging the claims as showing that many of the events either did not happen or did not happen in the way described by the plaintiff. The jury returned a verdict in favor of the defendant.

Ruiz v. Jackson SC076090 (2004)

In this 2004 case from Los Angeles, a jury awarded back wages and punitive damages against the defendants. The allegations raised by the plaintiff were that she was made a domestic slave for a year, and raised allegations of involuntary servitude, false imprisonment, invasion of privacy, negligence, and wage and hour violations. The allegation was that the defendants took the plaintiff's passport away from her and paid her only \$300.00 for a year's work at their condominium. A substantial verdict was entered by the jury against the defendants.

Following the civil case, there was criminal prosecution. The husband was sentenced to 200 hours of community service for admitting a charge of alien harboring. The wife defendant pleaded guilty to a charge of forced labor and was given a three year jail term.

Martinez v. Calimlim 651 F.Supp. 2d 852 (2009).

In this case Martinez was forced to work as a domestic servant for 19 years for a married couple, both of whom were physicians in Milwaukee, Wisconsin.

In May, 2006, the husband and the wife were convicted by a Milwaukee federal jury for

using threats of serious harm and physical restraint against the victim to retain her services in violation of Federal law. Their adult son was also convicted for harboring an illegal alien. The parents were sentenced to 72 months in prison, and ultimately deported back to their homeland, the Philippines after being released from prison. Evidence presented at the criminal trial was that the parents recruited and brought the victim from the Philippines to the United States when she was 19 years old. Nineteen years later based on a tip, Federal law enforcement officers rescued the victim from the residence. The victim alleged that she was hidden in the home, forbidden from going outside and told that she would be arrested, imprisoned and deported if she was discovered.

Subsequently, a civil action was filed against the parents and their adult children through a variety of counts including RICO violations, violation of the Thirteenth Amendment regarding involuntary servitude, and other related actions. The defendants filed a motion to dismiss. The trial court denied these motions and allowed the case to proceed. The insurance carriers for the various defendants became interveners in the action as there were clear coverage issues. The case was ultimately resolved pursuant to confidential settlement.

R v. Kovacs [2008] QCA 417.

Civil actions regarding human trafficking are certainly not limited to the United States. Similar to the Ruiz case and the Calimlim case, actions have been filed in Australia. In the

Kovacs case, a married couple, in which the wife was born in the Philippines, used her social network to identify the victim. The victim was persuaded to come to Australia in the belief that she could provide financial relief to her family. This case resulted in criminal prosecution of the couple who were convicted of slavery offenses and other crimes.

Masri v. Santoso, [2004] 131 IR 184 (Haylen J).

An Indonesian woman claimed she came to Australia at the age of 18 to work as a “nanny and house servant”. The victim believed that she was going to be paid for her service. The family argued that she was “brought to Australia as a favor to the driver of an Indonesian relative; it was never to be paid employment and any work performed she had volunteered”. Masri claimed she was forced to work 17 hours a day, 7 days a week. Over the two year period, she was required to give the husband a nightly massage. During the four years she worked for the family, she earned a total of \$5,190.00. Although the defendants argued that Masri was free to leave, the Court found that they had taken her passport, which they had apparently illegally procured. In this case, Masri was awarded \$95,000.00 in unpaid wages.

Additionally, there is an unreported case from Canberra. In that case, a three person

domestic staff at a foreign embassy was allegedly forced to work under slave like conditions. One of the individuals had their passport confiscated and was not paid for the six months he worked as a domestic for the ambassador. Because of the diplomatic immunity, the contract was unenforceable.

Clearly, human trafficking is an international problem. In addition to criminal investigation and prosecution, civil actions are being used as a deterrent and a method to protect and provide restitution for victims. The case recently filed in Philadelphia is apparently the first to target a hotel where the victim was housed. This case should be interesting to follow as it can have a significant impact in creating duties on parties in instances of human trafficking.

If you have an interest in helping to develop the law in this area, please become an active participant of the Social Justice Pro Bono Committee. The Committee meets by phone monthly and is actively engaged in issues of immigration and human trafficking.



Past Committee Newsletters

Visit the Committee's newsletter archive online at www.iadclaw.org to read other articles published by the Committee. Prior articles include:

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